United Nations S/2001/1233

Security Council

Distr.: General
24 December 2001
English
Original: French

Letter dated 20 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Sweden, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman of the Counter-Terrorism Committee

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Annex

[Original: English]

Letter dated 20 December 2001 from the Permanent Representative of Sweden to the United Nations addressed to the Chairman of the Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

On instruction from my Government, I hereby have the honour of enclosing a report from Sweden to the Counter-Terrorism Committee pursuant to paragraph 6 of Security Council resolution 1373 (2001).

My Government stands ready to provide the Committee with further reports or information, as necessary or if requested to do so by the Committee.

I should be grateful if you would have the text of this letter and the enclosed report circulated as a document of the Security Council.

(*Signed*) Pierre **Schori**
Ambassador
Permanent Representative

Enclosure

Report by Sweden to the Counter-Terrorism Committee established under paragraph 6 of resolution 1373 (2001), adopted by the Security Council at its 4385th meeting on 28 September 2001

Security Council resolution 1373 (2001) calls upon all States to report within 90 days to the Committee established under the provisions thereof on the steps taken to implement the resolution. This report is set out in accordance with the guidelines circulated by the Chairman of the Committee.

As a member of the European Union, Sweden hereby refers to the common report of the States members of the European Union. In addition, Sweden would like to add the following regarding national legislative measures:

1 (a) What measures if any have been taken to prevent and suppress the financing of terrorist acts in addition to those listed in response to questions on 1 (b) to (d)?

The measures taken to prevent and suppress the financing of terrorist acts are described in detail under each and every subparagraph. However, as described in the report of the European Union, the Financial Action Task Force on Money Laundering has extended its mandate to the financing of terrorism and Sweden, as a member of the Task Force, will take an active part in the implementation of the newly adopted special recommendations.

1 (b) What are the offences and penalties in your country with respect to the activities listed in this subparagraph?

Offences

The financing of crimes comes under the heading of preparation to commit a crime. Under chapter 23, section 2, of the Swedish Penal Code, a person who, with the intention of committing or promoting a crime, presents or receives money or anything else as pre-payment or payment for a crime shall in certain designated cases be sentenced for preparation of the crime unless he or she is found guilty of having attempted to commit or having committed a crime. In certain designated cases a sentence shall also be imposed for conspiracy to commit a crime. Conspiracy is defined as a decision to act in collusion with another person, or an offer to undertake or execute a crime or the attempt to incite another person to do so.

However, if the terrorist act is found to have been attempted or completed, a person financing the crime will be sentenced for aiding or instigating the preparatory or completed act. Under chapter 23, section 4, of the Swedish Penal Code, punishment shall be imposed not only on the person who committed the crime but also on anyone who furthered it by advice or deed (e.g., financing). A person not regarded as the perpetrator shall, if he or she induced another person to commit the act, be sentenced for *instigation* of the crime or for *aiding and abetting* the crime. Each accomplice shall be judged according to the intent or the negligence attributable to him or her.

Penalties

(a) If *financing an act of terrorism* that has been *completed* or reached the level of *attempt*, the maximum sentence is imprisonment for life;

(b) If *financing an act of terrorism* that has not been *completed* or reached the level of *attempt*, the maximum sentence shall be less than the highest limit applicable to the completed crime.

Sweden has ratified all the international criminal law conventions for the suppression of terrorism except for the International Convention for the Suppression of the Financing of Terrorism. Thus, Sweden has ratified and implemented all the conventions and protocols listed in the annex to the International Convention for the Suppression of the Financing of Terrorism. All acts which constitute an offence within the scope of and defined in the international criminal law conventions for the suppression of terrorism are therefore classed as crimes in Sweden.

Swedish legislation, however, contains no reference to specific criminal offences for terrorist acts. Persons committing terrorist acts are punished under the general provisions in the Penal Code. Terrorist acts punishable as crimes include murder, kidnapping, arson, aggravated criminal damage involving danger to someone's life, sabotage, hijacking, maritime or air traffic sabotage, airport sabotage and spreading poison or contagious substances. *All these crimes are punishable by life imprisonment.*

Under chapter 23, section 1, of the Swedish Penal Code, the penalty for an attempt to commit such crimes shall not be greater than what is applicable to a completed crime and not less than imprisonment if the lowest punishment for the completed crime is imprisonment for two years or more.

Punishment for *preparation* or *conspiracy* shall, under chapter 23, section 2, of the Swedish Penal Code, be less than the highest limit applicable to the completed crime.

1 (c) What legislation and procedures exist for freezing accounts and assets at banks and financial institutions?

The provisions embodied in resolution 1373 (2001) are in this respect covered by relevant European Community Regulations which are directly applicable in Sweden. This mainly holds for Council Regulation (EC) No. 467/2001 of 6 March 2001 and the five amendments that the European Commission has so far made to this Regulation *and* the coming Regulation on the implementation of resolution 1373 (2001). In this respect, Sweden refers to the common report of the States members of the European Union.

1 (d) What measures exist to prohibit the activities listed in this subparagraph?

See the response given in subparagraph 1 (c).

2 (a) What legislation or other measures are in place to give effect to this subparagraph? In particular, what offences in your country prohibit (i) recruitment to terrorist groups and (ii) the supply of weapons to terrorists? What other measures help prevent such activities?

Preparation or conspiracy to commit a crime

Under chapter 23, section 2, of the Swedish Penal Code, a person who procures, constructs, gives, receives, keeps, conveys or engages in any other similar activity with poisons, explosives, weapons, picklocks, falsification tools or other such means with the intention of committing or promoting a crime shall in certain designated cases be sentenced for preparation of a crime unless he or she is found guilty of having attempted to commit or committed the crime. In certain designated cases a sentence shall also be imposed for conspiracy. Conspiracy is defined as a decision to act in collusion with another person, or an offer to undertake or execute a crime, or the attempt to incite another person to do so.

Unlawful recruiting

A person who recruits people for military or comparable service without the authority of the Government can be sentenced for unlawful recruiting.

Inciting rebellion

A person who publicly urges or otherwise attempts to entice people to commit a criminal act can be sentenced for inciting rebellion. The act can be committed orally, through a publication or in other messages to the public.

The Special Control of Foreigners Act

The Special Control of Foreigners Act, the so-called *terrorist law*, allows the authorities to act even before there is full evidence of a crime being planned. Under this law, the Government can expel a foreigner if this is deemed necessary to the security of Sweden or if there are reasons to suspect that he or she will commit or take part in crimes involving violence, threats or coercion for political purposes. The law is also applicable to crimes suspected of having been committed abroad.

Furthermore, Swedish arms legislation is relatively restrictive in international terms and covers the provisions set out in the European Union directives in this area.

2 (b) What other steps are being taken to prevent the commission of terrorist acts and, in particular, what early warning mechanisms exist to allow exchange of information with other States?

At a meeting on 20 September 2001, the European Council agreed on a number of measures to intensify information exchange between member States. These include regular meetings of the heads of member States' anti-terrorist units and their intelligence agencies. Cooperation between the States members of the European Union and Europol has also been stepped up. Sweden has appointed one liaison officer to the team of counter-terrorism specialists set up in Europol.

The decision taken on 6 December 2001 to make Eurojust fully operational will also facilitate the exchange of operational information. When the Swedish Riksdag has consented to Swedish approval of Eurojust, Sweden will be able to

withdraw its parliamentary scrutiny reservation and thus give its full support to approval of Eurojust.

2 (c) What legislation or procedures exist for denying safe haven to terrorists, such as laws for excluding or expelling the types of individuals referred to in this subparagraph?

Under the Aliens Act (1989), the Swedish Migration Board or the Aliens Appeals Board may exclude aliens who have been involved in terrorist acts from refugee status following the same principles as those set out in article 1 F (a) of the 1951 Geneva Convention relating to the Status of Refugees. Refugees or other persons in need of protection may be denied residence permits in exceptional cases on the basis of what is known about the alien's previous activities or on the grounds of national security. However, persons who risk capital punishment or torture or other inhuman or degrading treatment or punishment may never be returned to their country of origin or another country where they would be exposed to such a risk.

2 (d) What legislation or procedures exist to prevent terrorists from acting from your territory against other States or citizens?

See the response given under subparagraph 2 (b).

As stated earlier, Swedish legislation contains no reference to specific criminal offences for terrorist acts. Persons committing such acts are punished in accordance with the general provisions in the Penal Code. The Penal Code also provides for prosecution for acts being executed or planned from Sweden against other States or citizens.

Another way of preventing such acts would be to invoke the Special Control of Foreigners Act (see the response in subparagraph 2 (a)). Under this law, the Government can expel a foreigner if there are grounds for suspecting that he or she will commit or take part in crimes involving violence, threats or coercion for political purposes. The law is also applicable to crimes suspected of having been committed abroad.

2 (e) What steps have been taken to establish terrorist acts as serious criminal offences and to ensure that the punishment reflects the seriousness of such terrorist acts?

Sweden has ratified all of the international criminal law conventions for the suppression of terrorism, except for the International Convention for the Suppression of the Financing of Terrorism. Thus, Sweden has ratified and implemented all the conventions and protocols which are listed in the annex to the International Convention for the Suppression of the Financing of Terrorism. All acts that constitute an offence within the scope of and as defined in the international criminal law conventions for the suppression of terrorism are therefore criminalized in Sweden.

Furthermore, on 15 October 2001, Sweden signed the International Convention for the Suppression of the Financing of Terrorism. The necessary legislation for Sweden to comply fully with and adhere to the Convention is being prepared. The intention of the Swedish Government is to send a bill to Parliament early next year with the necessary legislative proposals, including a proposal that Sweden should

ratify the Convention. If accepted by Parliament, the new legislation and ratification ought to come into force on 1 July 2002.

As stated above, Swedish legislation contains no reference to terrorist acts as a special criminal offence. Persons committing terrorist acts are punished in accordance with the general provisions of the Penal Code. Terrorist acts may take the form of a number of specific offences, for example, murder, kidnapping, arson, devastation, endangering the public, sabotage, hijacking, maritime or air traffic sabotage, airport sabotage and spreading poison or a contagious substance. *All these crimes are punishable by imprisonment for life.*

In addition, as a member of the European Union, Sweden is required to implement the Framework Decision on combating terrorism, which is set out in the general report of the European Union.

Finally, on 6 December 2001, the European Council reached political agreement on setting up the judicial cooperation unit Eurojust. Its objective is to improve and encourage cooperation between the competent national authorities, in particular by facilitating mutual legal assistance and the implementation of extradition requests. When the Swedish Riksdag has consented to Swedish approval of Eurojust, Sweden will be able to withdraw its parliamentary scrutiny reservation and thus give its full support to approval of Eurojust.

2 (f) What procedures and mechanisms are in place to assist other States?

With regard to judicial cooperation, the Act concerning International Legal Assistance in Criminal Matters (2000:562) allows Swedish prosecutors and judges to be of assistance in foreign criminal investigations. When another State requests assistance, Sweden can provide help with all measures which are permissible in a Swedish preliminary investigation (e.g., searches of premises and confiscation, secret interception of telecommunications, etc.). When such measures are taken, the same terms and conditions apply as in Swedish preliminary investigations. Sweden does not require the existence of an agreement with the State requesting support. Assistance can always be given if the conditions specified by the legislation are fulfilled.

See also the response given under subparagraph 2 (b).

2 (g) How do border controls in your country prevent the movement of terrorists? How do your procedures for the issuance of identity papers and travel documents support this? What measures exist to prevent their forgery, etc?

Since 25 March 2001, Sweden has been an operative member of the Schengen group. This means that there are no longer any border checks at internal frontiers, i.e., borders shared with other Schengen States, and that people are able to move freely between Sweden and other States in the Schengen area. At the external borders, the Schengen State at the border is responsible for border controls. With respect to a number of the questions dealt with in this report, uniform regulations are in force for the entire area covered by the Schengen Agreement. Checks at the external borders are carried out in accordance with common regulations. For its part, Sweden implemented a number of measures to strengthen its own border controls in preparation for entry into the Schengen group. In the consular area, there is extensive cooperation between the Schengen States, including cooperation on visa

policy. To prevent forgery, visas, travel documents and other papers issued conform to joint European Union security standards.

The Schengen Information System (SIS) contains information on missing documents and other objects, persons who are to be denied entry into the Schengen area and other data. There is extensive police cooperation between the Schengen States. On 12 September 2001, the Swedish National Police Board began an evaluation of Sweden's operative entry into the Schengen group with the assistance of the Board of Customs, the Swedish Coast Guard, the Swedish Migration Board, the public prosecution offices and other authorities. In this evaluation, particular emphasis has been given to the importance of efficient border controls and one of the points raised has been the question of the measures that need to be taken to prevent the free movement of terrorists. One example of a specific measure is the stationing of extra staff at the borders.

3 (a) What steps have been taken to intensify and accelerate the exchange of operational information in the areas indicated in this subparagraph?

See the response in subparagraph 2 (b).

3 (b) What steps have been taken to exchange information and cooperate in the areas indicated in this subparagraph?

Regarding cooperation on judicial measures, the Act on International Judicial Assistance in Criminal Matters (2000:562) enables Sweden to assist other countries, inter alia, with questioning in connection with preliminary investigations, the taking of evidence by a court and with procedural coercive measures such as attachment, confiscation and search of premises. All the instruments available for domestic investigations under the Code of Judicial Procedure may be used when other States request assistance.

The Swedish Security Service extends continual, highly developed cooperation to other security services. This cooperation, which naturally has intensified after the events in the United States, not only includes direct exchanges of information between security services; the Security Service also actively participates in regular meetings which take place within the framework of European Union cooperation and in other forums within and outside Europe involved with the fight against terrorism. This latter type of cooperation consists largely of the general exchange of information, while the former is of a more operative nature.

See also the response given under subparagraph 2 (b).

3 (c) What steps have been taken to cooperate in the areas indicated in this subparagraph?

As far as the question concerning measures taken against offenders is concerned, as mentioned previously in connection with subparagraph 2 (f), prosecutors and judges are able to offer assistance with foreign criminal investigations under the Act concerning International Legal Assistance in Criminal Matters (2000:562).

In addition, see the responses given in subparagraphs 2 (b) and 3 (b).

3 (d) What are your intentions regarding signing and/or ratifying the conventions and protocols referred to in this subparagraph?

International criminal law conventions for the suppression of terrorism

Sweden has ratified all the international criminal law conventions for the suppression of terrorism, except for the International Convention for the Suppression of the Financing of Terrorism. Thus, Sweden has ratified and implemented all the conventions and protocols listed in the annex to the International Convention for the Suppression of the Financing of Terrorism. All acts constituting an offence within the scope of and defined in the international criminal law conventions for the suppression of terrorism are therefore criminal offences in Sweden.

International Convention for the Suppression of the Financing of Terrorism

Sweden signed this Convention on 15 October 2001. The legislation that needs to be in place to enable Sweden to fully comply with and adhere to the Convention is in preparation. The Swedish Government intends to present a bill to Parliament early next year containing the necessary legislative proposals, including a proposal that Sweden should ratify the Convention. If accepted by Parliament, the new legislation and ratification ought to come into force on 1 July 2002.

Convention on the Marking of Plastic Explosives for the Purpose of Detection

This Convention was drawn up in 1991 and refers to the marking of plastic explosives. The Convention requires States parties to equip all their plastic explosives, including those that are privately owned, with substances that facilitate detection. Sweden signed the Convention on 13 November 1992 but has not yet ratified it.

3 (e) Provide any relevant information on the implementation of the conventions, protocols and resolutions referred to in this subparagraph?

Sweden has ratified and implemented the following *international conventions and protocols* relating to terrorism:

- Convention on Offences and Certain Other Acts Committed on Board Aircraft, Tokyo, 14 September 1963;
- Convention for the Suppression of Unlawful Seizure of Aircraft, The Hague, 16 December 1970;
- Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, Montreal, Canada, 23 September 1971;
- Convention on the Prevention and Punishment of Crimes Against Internationally Protected Persons, including Diplomatic Agents, New York, 14 December 1973;
- International Convention Against the Taking of Hostages, New York, 18 December 1979;
- Convention on the Physical Protection of Nuclear Material, Vienna, 3 March 1980;

- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Civil Aviation, Montreal, Canada, 24 February 1988;
- Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, Rome, 10 March 1988;
- International Convention for the Suppression of Terrorist Bombing, New York, 12 January 1998.

Sweden has also ratified the European Convention on the Suppression of Terrorism, Strasbourg, France, 27 January 1977.

Sweden has *signed but not yet ratified* the following two international conventions relating to terrorism:

- Convention on the Marking of Plastic Explosives for the Purpose of Detection, Montreal, Canada, 1 March 1991;
- International Convention for the Suppression of the Financing of Terrorism, New York, 10 January 2000.

In addition, see the responses given under subparagraph 3 (d).

3 (f) What legislation, procedures and mechanisms are in place for ensuring asylum seekers have not been involved in terrorist activity before granting refugee status?

The Swedish Government has instructed the Swedish Migration Board and the Aliens Appeals Board in writing to look into the implementation of this article in their assessment of individual cases. Thorough security measures are implemented in the handling of individual cases at present within the framework of existing asylum and migration laws and regulations. The Migration Board and the Aliens Appeals Board may ask the security police for an opinion in cases where the authorities believe there are grounds for exclusion from refugee status, for example, alleged terrorism.

3 (g) What procedures are in place to prevent the abuse of refugee status by terrorists?

The Swedish Migration Board has appointed a task force to ensure better coordination between asylum authorities and police and prosecutors in order to fulfil the requirements set out in resolution 1373 (2001), primarily to facilitate better use of existing legal recourse for excluding terrorists from refugee status and to make it easier to bring them to justice.